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August 10, 2012

VIA E-MAIL

Honorable Lois H. Goodman, U.S.M.J.
United States District Court
Clarkson S. Fisher Federal Building
& U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

Re: *Orexo AB v. Mylan Pharmaceuticals Inc., et al.*
Civil Action No. 11-3788 (MAS) (LHG)

Dear Judge Goodman,

On behalf of the Mylan defendants, we respectfully request that the Court consider this brief response to the letter submitted by plaintiff Orexo this morning shortly after midnight, concerning the parties' August 17 claim construction submissions. We recognize that the parties are discussing the interpretation of the Court's ruling of August 1 and that Your Honor, of course, knows best what that ruling encompassed. We write only to correct Orexo's mistaken characterization of Mylan's position, because an accurate understanding of Mylan's proposed August 17 submission should assist in a resolution of the dispute.

As set forth in our opening letter, Mylan's intent is to supplement its identification of evidence *in opposition to* Orexo's proposed claim constructions. Our understanding of the August 1 ruling is that we are permitted to supplement our opposition evidence with the NDA – which Orexo belatedly produced after the submission of the joint claim construction statement – and with other evidence, as proposed by Orexo's counsel on the call.

Much of Orexo's letter addresses its misconception that Mylan intends to identify additional evidence in support of Mylan's claim constructions, and its arguments that this should

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not be permitted. Since Mylan has no such intention, most of Orexo's arguments are irrelevant to the issue before the Court.¹

We appreciate the Court's consideration.

Respectfully,



Beth D. Jacob

cc: Errol Taylor, Esq. (via e-mail)
Arnold Calmann, Esq. (via e-mail)
John Flaherty, Esq (via e-mail)

¹ I have been advised by our local counsel that there is no need to respond to the personal attack in the first footnote of Orexo's letter, since such attacks are inconsistent with accepted practice in the District of New Jersey.